

**REMARKS**

Applicants note that Claims 1-8, 13 and 15-16 were canceled in the previous Amendment dated April 7, 2006. The Final Office Action dated May 4, 2006 still includes several references to these canceled claims various rejections and restrictions. Applicants have disregarded these references to the previously canceled claims.

Claims 9-12, 14 and 17 were previously pending in the application and remain unchanged.

Claims 1-6, 9-14 and 17 were rejected under 35 USC §102(b) as being anticipated by German publication 90 14 463.5 (hereinafter “DE ‘463”). Claims 9-11, 13-14 and 17-18 were rejected under 35 USC §102(b) as being anticipated by U.S. Patent No. 3,353,704 issued to Belcher et al. (hereinafter “Belcher”).

Independent Claim 9 recites a storage compartment for a refrigerator door, the storage compartment comprising: a box shaped body having a longitudinal wall and a given depth with a slot extending vertically within the longitudinal wall at least along a portion thereof; and a compartment divider having a rider extending downwardly spaced from a wall thereof located adjacent to said slot for being received within the slot for holding said compartment divider attached within said box shaped body, and said compartment divider defining a chamber for holding small items and extending over more than half of the given depth, wherein the compartment divider is defined by four connected walls which do not extend to a bottom of said box shaped body to define said chamber within the connected walls for holding items therein, and an open bottom for allowing items held therein to rest on said bottom of said box shaped body.

Claim 9 was amended to include the phrase “within the connected walls” to further clarify the chamber. Applicants intended to include this phrase in the previous amendment, but it was omitted due to clerical error. The remarks section of the previous Amendment, dated April 7, 2006, included this limitation in the recitation of Claim 9 and discussed this limitation as it related to the prior art. Applicants’ Attorney also discussed this limitation with the Examiner during the telephone interview on April 6, 2006. Claim 9 was also amended to correct “a bottom” to “said bottom”, because this element was recited earlier in the claim. Applicants respectfully request entry and consideration of this amendment.

### The DE '463 Reference

The following remarks regarding the DE '463 reference are the same remarks from the previous Amendment and are repeated due to the recitation of the phrase "within the connected walls" to further clarify the chamber over the tongue divider (31) of the DE '463 reference.

The DE '463 reference discloses a receptacle (20) having two formed parts (22) connected to a rear wall (24) of the receptacle (20). As shown in Fig. 2, the left formed part forms an enclosed divider (30) defining an inner region, and the right formed part forms a tongue divider (31) having a tongue extending outwardly from the rear wall (24). Fig. 3 illustrates a cross-sectional view of the enclosed divider (30), and Fig. 4 illustrates a cross-sectional view of the tongue divider (31). As shown in Fig. 3, the enclosed divider (30) includes a solid closed bottom beneath the inner region.

DE '463 does not disclose, among other things, a compartment divider "extending over more than half of the given depth, wherein the compartment divider is defined by four connected walls which do not extend to a bottom of said box shaped body to define said chamber within the connected walls for holding items therein, and an open bottom for allowing items held therein to rest on a bottom of said box shaped body," as recited in Claim 9. As described above, DE '463 disclose two separate dividers, the enclosed divider (30) and the tongue divider (31). Neither of these dividers (30, 31) disclose all the elements recited in Claim 9.

Regarding the enclosed divider (30), as shown in Fig. 2, the enclosed divider (30) does not extend "over more than half of the given depth" from the rear wall (24). In the Final Office action dated November 10, 2005, the Examiner identified the dimensional direction of "depth" as being viewed as the direction from a front of the body to a back of the body. Applicants agree with this interpretation of the "depth" dimension. When using this interpretation, the enclosed divider (30) does not extend "over more than half of the given depth," as recited in Claim 9. Therefore, the enclosed divider (30) of DE '463 does not disclose all the elements of Claim 9.

In addition, the enclosed divider (30) does not disclose "an open bottom for allowing items held therein to rest on said bottom of said box shaped body," as recited in

Claim 9. As shown in Fig. 3, the enclosed divider (30) has a solid closed bottom. This closed bottom prevents items held within the divider (30) from resting on the bottom (29) of the receptacle (20). Therefore, the enclosed divider (30) of DE '463 does not disclose all the elements of Claim 9.

Regarding the tongue divider (31), as shown in Fig. 2, the tongue divider (31) does not disclose a compartment divider "defined by four connected walls which do not extend to a bottom of said box shaped body to define said chamber within the connected walls," as recited in Claim 9. The tongue divider (31) discloses a fin-shaped tongue member extending from a base portion connected to the rear wall (24). The tongue divider (31) does not disclose four connected walls defining the chamber within the connected walls. The tongue divider (31) does not disclose a "chamber" as recited in Claim 9. In addition, the tongue divider (31) does not disclose the chamber having "an open bottom" as recited in Claim 9. Therefore, the tongue divider (31) of DE '463 does not disclose all the elements of Claim 9.

The following remarks regarding the DE '463 reference are new and have been added in response to the Final Office Action dated May 4, 2006. On page 4, the Examiner has added the comment, "as to claim 9 – the chamber is 30 see fig. 3." Fig. 3 of the DE '463 reference illustrates the enclosed divider (30) having a closed bottom. Items placed within the enclosed divider (30) will rest on this closed bottom. Claim 9 recites that the compartment divider has "an open bottom for allowing items held therein to rest on said bottom of said box shaped body." The closed bottom of the enclosed divider (30) in DE '463 is the complete opposite of the open bottom recited in Claim 9 and prevents any items within the enclosed divider (30) of DE '463 from resting on the bottom (29) of the receptacle (20). Applicants also note that Fig. 2 of DE '463 *does not* disclose the enclosed divider (30) extending over half of the given depth.

The DE '463 reference discloses two separate dividers, the enclosed divider (30) and the tongue divider (31). In the rejection for Claim 9, the Examiner selectively chose separate features from the two different dividers (30, 31) to identify the features of the compartment divider recited in Claim 9. For example, the Examiner identifies the enclosed divider (30) as having a chamber and identifies the tongue divider (31) as extending over more than half of the given depth. These are two separate dividers (30,

31), they just happen to be shown in the same reference. Individually, neither of these dividers (30, 31) disclose the combination of elements recited in Claim 9. Claim 9 recites all of the recited elements being part of the same single compartment divider. The features from the *two separate dividers* (30, 31) of DE '463 cannot be selectively combined to support the rejection of the *single compartment divider* recited in Claim 9. Therefore, Applicants respectfully request reconsideration of the rejection of Claim 9.

For these and other reasons, DE '463 does not disclose the subject matter defined by independent Claim 9. Therefore, Claim 9 is allowable. Claims 10-12, 14 and 17 depend from Claim 9 and are allowable for the same reasons and also because they recite additional patentable subject matter.

### **The Belcher Reference**

The Belcher reference discloses a beverage case (10) with interchangeable partitions or dividers. The beverage case (10) includes side walls (12), end walls (13), and a bottom (11). The dividers within the beverage case (10) include transverse vertical dividers (18), cross-members (20), and longitudinal divider elements (27).

Belcher does not disclose, among other things, "a storage compartment for a refrigerator door", as recited in the Claim 9. Rather, Belcher discloses a case for transporting beverages from the bottling location to a sales location. As described in the specification of Belcher, the "beverage bottlers may load the cases either with or without the dividers in place, so as to accommodate either "take-home" cartons of bottles, or twenty-four bottles in a like number of cells." (See col. 1, lines 50-55) The interchangeable dividers in the case may accommodate 24 bottles pre-packaged in 6-packs, 8-packs, or just as individual bottles. Belcher provides no teaching or suggestion that the beverage case has any relation to a refrigerator door. The beverage case of Belcher is specifically designed to have a size large enough to receive at least four standard beverage bottles side-by-side. A beverage case of this size would not even fit in the door of a refrigerator. Therefore, all the elements of Claim 9 are not disclosed by Belcher.

Belcher does not disclose, among other things, a compartment divider "defined by four connected walls which do not extend to a bottom of said box shaped body", as

recited in the Claim 9. Claim 9 recites that the walls of the compartment divider do not extend to the bottom of the box shaped body. These walls are spaced apart from the bottom. In Belcher, the dividers extend to the bottom of the case, and even beyond the bottom. As shown in Figs. 6-8, the divider (18) extends completely to the bottom (11) of the case and the guide pin (32), which is part of the divider (18), extends beyond the bottom (11) through the aperture (33).

On page 6 of the Final Office Action dated May 4, 2006, the Examiner states that “as depicted in Figs. 7-8 – the walls may be viewed as not extending to a bottom of the body i.e., the bottom is below a bottom wall which is below the walls.” Applicants are unclear what portion of the body the Examiner is referring to with a bottom below a bottom wall, but Fig. 8 clearly illustrates the pin (32) of the divider (18) extending through and beyond the bottom (11) of the case. Applicants appreciate that the Examiner must interpret the claim language broadly during examination of the application. However, in this case, Applicants believe the Examiner has gone beyond the plain meaning of the term “bottom” to create a hypothetical “bottom below a bottom wall”. Belcher clearly shows a bottom (11) for the case and even identifies the element with the term “bottom”. The divider (18) of Belcher extends to the bottom (11) of the case and the pin (32) of the divider (18) even extends completely through the bottom (18).

In addition, the Examiner has disregarded other limitations for the bottom in Claim 9. Claim 9 further recites “allowing items held therein to rest on said bottom of said box shaped body.” Even if Belcher disclosed a bottom below the bottom wall, as referred to by the Examiner referring to, Belcher does not disclose items held within the chamber resting on this bottom below the bottom wall. Therefore, Applicants respectfully request reconsideration of the rejection of Claim 9.

For these and other reasons, Belcher does not disclose the subject matter defined by independent Claim 9. Therefore, Claim 9 is allowable. Claims 10-12, 14 and 17 depend from Claim 9 and are allowable for the same reasons and also because they recite additional patentable subject matter.

**CONCLUSION**

In view of the above, entry of the present Amendment and allowance of Claims 9-12, 14 and 17 are respectfully requested. If the Examiner has any questions regarding this amendment, the Examiner is requested to contact the undersigned. If an extension of time for this paper is required, petition for extension is herewith made.

Respectfully submitted,



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